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Generaldirektion 2

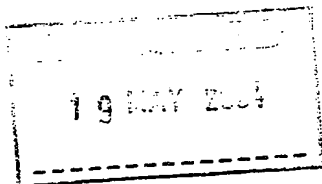
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Application No. 99 905 677.3 - 2124	Ref. 102547/PDJ	Date 17.05.2004
Applicant CONTINENTAL PET TECHNOLOGIES, INC.		

**Communication pursuant to Article 96(2) EPC**

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

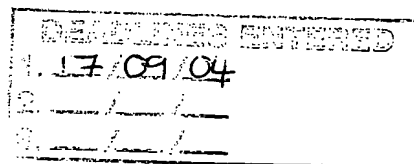
You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

**of 4 months**

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

**Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).**



SOMERVILLE F M  
Primary Examiner  
for the Examining Division

Enclosure(s): 4 page/s reasons (Form 2906)

Datum  
Date 17.05.2004  
DateBlatt  
Sheet 1  
FeuilleAnmelde-Nr.:  
Application No.: 99 905 677.3  
Demande n°:

The examination is being carried out on the **following application documents**:

Text for the Contracting States:

AT BE CH LI CY DE DK ES FI FR GB GR IE IT LU MC NL PT SE

**Description, pages:**

1-33,35-52, 54-58	as published			
34	as received on	25.03.1999	with letter of	23.03.1999
53	as received on	22.08.2000	with letter of	15.08.2000

**Claims, No.:**

1-67	as received on	22.08.2000	with letter of	15.08.2000
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**Drawings, sheets:**

1/24-24/24	as received on	22.08.2000	with letter of	15.08.2000
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1). The following documents are referred to in this communication:

D1 = EP-A-0520257  
D2 = EP-A-0507207  
D3 = EP-A-0301719  
D4 = EP-A-0380319  
D5 = WO-A-9000504  
D6 = WO-A-9618685  
D7 = WO-A-9618686  
D8 = US-A-5639815

2). As already explained in the annex to the invitation to pay additional fees from the International Searching Authority, the present Application, which in amended form contains **67** claims of which **23** are independent, relates to a multiplicity of



different inventions which are not linked by a common novel and inventive concept. The Examining Division agrees with the objection by the International Searching Authority as to lack of unity (Article 82, EPC), since from the multiplicity of independent claims it is unclear which common concept links the various product and method claims. It should be noted that some claims relate inter alia to oxygen scavenging, some to reducing melt index, some to the use of polyamide/cobalt compositions, some to carbonyl polymers containing transition metal, some to completely unspecified oxygen scavenging (polymer) compositions, some to heating polyamide to improve oxygen scavenging, some to xylylene-substituted polyamides containing cobalt and some to containers from solid-stated carbonyl polymer.

The Applicant is therefore requested to restrict the claimed subject-matter to claims linked by a common novel and inventive concept and also to bear in mind the requirements of Rule 29(2), EPC. **Any amended claims should be accompanied by a detailed explanation as to why they fulfil the requirements of Art.82 and Rule 29(2), EPC.**

Any subject-matter to be excised may be made the subject of one or more divisional applications. The divisional applications must be filed directly at the European Patent Office in Munich or its branch at The Hague and in the language of the proceedings relating to the present application, cf. Article 76(1) and Rule 4 EPC. The time limit for filing divisional applications (Rule 25(1) EPC) must be observed.

- 3). For the sake of completeness, the following provisional opinion is given with respect to novelty (Art.54, EPC) and inventive step (Art.56, EPC):
- 3.1). Document D1 describes (Claim 34 and page 3, line 46) packaging compositions comprising oxygen-scavenging compositions of polyamide and a transition metal catalyst. The subject-matter of at least Claims 1-6,9,10,13,18,20,25,40,61,62 and 64 of the present Application appears to lack novelty with respect to the disclosure of D1.

Document D2 describes (Claims) packaging compositions comprising



oxygen-scavenging compositions of unsaturated hydrocarbon and a transition metal catalyst. The subject-matter of at least Claims 1,2,6,9,10,13,20 and 61 of the present Application appears to lack novelty with respect to the disclosure of D2.

Document D3 describes (Claims) packaging compositions comprising oxygen-scavenging compositions of an oxidizable component (e.g. polyamide) and a transition metal catalyst. The subject-matter of at least Claims 1-6,9,10,13,18,20,25,40,61,62 and 64 of the present Application appears to lack novelty with respect to the disclosure of D3.

Document D4 describes (Claims) packaging compositions comprising oxygen-scavenging compositions of polyamide and a transition metal catalyst. The subject-matter of at least Claims 1-6,9,10,13,18,20,25,40,61,62 and 64 of the present Application appears to lack novelty with respect to the disclosure of D4.

Document D5 describes (Claims) packaging compositions comprising oxygen-scavenging compositions of e.g. polyamide and a transition metal catalyst. The subject-matter of at least Claims 1,3-5,13,18,20,40,62 and 64 of the present Application appears to lack novelty with respect to the disclosure of D5.

Document D6 describes (Claims) (multilayer) packaging compositions comprising oxygen-scavenging compositions of polyamide and a transition metal catalyst. The subject-matter of at least Claims 1-7,10,13,18-20,25,27-29,40,56,61,62 and 64 of the present Application appears to lack novelty with respect to the disclosure of D6

Document D7 describes (Claims) packaging compositions comprising oxygen-scavenging compositions of aliphatic polyketone. The subject-matter of at least Claims 1,2,6-15,20,61 and 65 of the present Application appears to lack novelty with respect to the disclosure of D7.

Document D8 describes (Claim 34 and page 3, line 46) packaging compositions comprising oxygen-scavenging compositions of polyamide and a transition metal catalyst. The subject-matter of at least Claims 1-



6,10,13,18,20,25,40,62 and 64 of the present Application appears to lack novelty with respect to the disclosure of D8.

3.2). The subject-matter of Claims 16,17,21-24,36,30-39,41-55,57-60,63,66 and 67, which concerns specific embodiments of Claims 1,20,25,41 or a method of solid-stating polyamide, methods of forming a multilayer article, a method of injection moulding a preform, a method of heating polyamide and various conventional articles, does not appear to make a contribution to an inventive step. There is no evidence on file that the subject-matter of any of these claims is associated with a technical effect not predictable from the prior art.

4). The following objections to the Application in its present form should also be noted:

4.1). Units employed in the Application are not additionally expressed in terms of the units stipulated by Rule 35(12), EPC.

4.2). Claim 4 is not distinguished from Claim 3 since it is not possible to detect in the package whether the polyamide was obtained by solid state polymerization or not.

4.3). The meaning of MXD-6 in Claim 5 is unclear (Art.84, EPC).

4.4). The "percent haze" in e.g. Claim 14 and the melt index in Claim 42 are not clearly defined (Art.84, EPC).

4.5). The Claims 59 and 60 are unclear since the parameters mentioned are not clearly defined.

4.6). On pages 1,24,28 and 33 references are referred to as "incorporated by reference". This wording should be deleted (cf. Guidelines for Examination, CII, 4.18). If matter in these documents is essential to satisfy the requirements of Art.83 EPC, then it should be incorporated expressis verbis in the Description.